

REMARKS

Claim 6 has been rejected under 35 U.S.C. §112, second paragraph for failing to particularly point out and distinctly claim the invention, based on a formal issue cited in page 2 of the Office Action. In response to this ground of rejection, Applicants have amended Claim 6 to eliminate the phrase “the auxiliaries” in favor of “auxiliary devices for the operation of the burner”. Accordingly, Claim 6 is now believed to be clear and definite.

Claims 1-3, 5-6 and 12 have been rejected under 35 U.S.C. §102(b) as anticipated by Rock et al (European patent document EP 1113516). Alternatively, the same claims have been rejected under 35 U.S.C. §103(a) as obvious over Rock et al, while Claim 4 has been rejected as obvious over Rock et al in view of Edlund (U.S. Patent No. 6,495,227), Claims 7 and 9 have been rejected as unpatentable over Rock et al in view of Amrhein (Published U.S. Patent Application No. 2003/0124399), Claims 8 and 10-11 have been rejected as obvious over Rock et al in view of Bloomfield (U.S. Patent No. 3,976,507), and Claims 13-15 have been rejected as obvious over Rock et al in view of Fuller (U.S. Patent No. 6,068,941). However, for the reasons set forth below, Applicants respectfully submit that the primary Rock et al reference does not constitute prior art with respect to the present application. Accordingly, the rejection of all claims in this application based on Rock et al is traversed.

As indicated on page 3 of the Application Data Sheet submitted August 7, 2006, the present application is a U.S. national stage application based on International Patent Application No. PCT/US2005/003357 filed February 4, 2005. The latter application in turn claims priority of U.S. Provisional Application No. 60/570,052 filed May 11, 2004 and German Patent Application No. 10 2004 005 935.7 filed February 6, 2004. Priority of all of the latter applications is claimed in the present application on page 3 of the Application Data Sheet.

Because the publication date of the Rock et al patent, April 28, 2004 is less than one year prior to the effective U.S. filing date of the present application (February 4, 2005), the Rock et al cannot constitute prior art under §102(b). However, because the German priority date of the present application (February 6, 2004) precedes the publication date of the Rock et al patent, the latter also does not constitute prior art within the meaning of §102(a). Moreover, a check of PTO Records in PAIR, confirms that certified copies of both the German priority document and the U.S. provisional application have been submitted to the U.S. Patent and Trademark Office. Accordingly, in order to perfect the claim of priority, it is necessary only for the Applicant to submit a verified translation of the priority document. Applicant is currently in the process of obtaining such a verification, and will submit it promptly upon receipt.

For the sake of completeness, Applicant notes that the Rock et al patent does not teach or suggest a system which uses power provided by the fuel cell stack during a startup time, while the ambient temperature is below a temperature at which the fuel cell stack is capable of sustaining a normal operation, "to operate the heating device for heating the cooling agent, as well as the coolant pump". Rather, paragraph [0016] of Rock et al discloses the use of electrical current drawn from the stack only for "internal IR heating of the stack". There is no teaching or suggestion to drive the coolant pump, or the burner (including auxiliaries necessary for operation of the burner) using electrical current generated by the fuel cell during this period. With regard to this limitation, the Office Action indicates at pages 3 and 4 that it would have been obvious to adopt the power from the fuel cell to operate auxiliaries such as a compressor to supply reactants for a needed electrochemical reaction in the fuel cell for the purpose of providing internal heating. However, no support for this proposition is provided and indeed, the Rock et al patent appears to contain no disclosure which suggests anything other than using such current for IR heating internally within the fuel cell itself.

In all events, however, because Rock et al does not constitute prior art with respect to the present application, further elaboration of this point is believed to be unnecessary.

The Amrhein patent application, on the other hand, has been cited only in respect of Claims 7 and 9, as teaching the use of residual hydrogen from a fuel cell unit to operate a burner. Moreover, the Bloomfield patent has been cited in respect of Claims 8 and 10-11 as teaching the use of a compressor to supply air to both a fuel cell stack and a burner via an air control box, with a certain volume ratio of air supply to the fuel cell stack and the burner. Finally, the Fuller patent has been cited only in respect of Claims 13-15, as teaching the use of a battery as an auxiliary power source to operate an air blower and water pump to provide reactant for a fuel cell. Accordingly, Applicant respectfully submits that none of the latter references teaches or suggests those features of the invention attributed to the Rock et al patent, as discussed in the Office Action. Thus, Applicant respectfully submits that all claims of record in this application distinguish over these references.

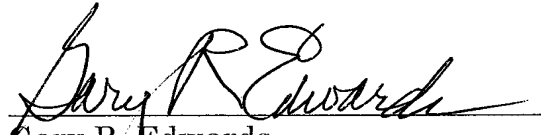
In light of the foregoing remarks, this application should be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and

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please charge any deficiency in fees or credit any overpayments to Deposit
Account No. 05-1323 (Docket # 102063.56866US).

Respectfully submitted,


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